

ATTORNEY DOCKET NO.  
069078.0104

PATENT APPLICATION  
09/844,170

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: James M. FLORENCE  
Serial No.: 09/844,170  
Filed: April 25, 2001  
Group No.: 2874  
Examiner: Hemang Sanghavi  
Notice of Allowance Mailed: October 2, 2002  
Confirmation No: 1739  
Title: METHOD AND APPARATUS FOR  
SWITCHING OPTICAL SIGNALS WITH  
A PHOTON BAND GAP DEVICE

**ATTENTION: PETITIONS EXAMINER**  
**FRANCES HICKS**

**BOX DAC**

Office of Petitions in the  
Office of the Deputy  
Commissioner for Patent  
Examination Policy  
Assistant Commissioner  
for Patents  
Washington, D.C. 20231

Dear Sir:

**CERTIFICATE OF  
FACSIMILE TRANSMISSION**

I hereby certify that this paper and any  
enclosures are being transmitted by facsimile  
to the U.S. Patent and Trademark Office on  
the date shown below:

Signature:

T. Murray Smith, Reg. No. 30222

Date:

21 January 2003

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PETITIONS OFFICE

**PETITION UNDER 37 C.F.R. §1.313(c) (2)****FOR WITHDRAWAL FROM ISSUE**

Pursuant to the provisions of 37 C.F.R. §1.313(c) (2), it  
is respectfully requested that this application be withdrawn  
from issue for consideration of a Request for Continued  
Examination under 37 C.F.R. §1.114. The present situation was

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discussed by telephone with Petitions Examiner Frances Hicks on January 21, 2003.

In more detail, a Notice of Allowance has been issued, the issue fee has been paid, and a patent is scheduled to issue on January 28, 2003. However, Applicant has received some documents which were cited in a corresponding PCT application, which are not of record in the present application, and which Applicant wishes to submit with an Information Disclosure Statement. Accordingly, this Petition is being filed by facsimile in order to request that the present application be immediately withdrawn from issue under 37 C.F.R. §1.313(c)(2) in order to permit consideration of a Request for Continued Examination under 37 C.F.R. §1.114. The Request for Continued Examination is being filed by facsimile concurrently with this Petition. As explained in the accompanying Request for Continued Examination, the "submission" required in association with the Request for Continued Examination will be the Information Disclosure Statement mentioned above. The provisions of MPEP §609-B(4) indicate that, where the size of the Information Disclosure Statement makes its submission by facsimile impractical (which is the case here), the Information Disclosure Statement does not need to be sent by facsimile with this Petition and the associated Request for Continued Examination. Accordingly, in this case, the Information Disclosure Statement will be submitted in due course. The accompanying Request for Continued Examination includes a request for a brief suspension of action under 37 CFR §1.103, in order to give Applicant time to file the Information Disclosure Statement.

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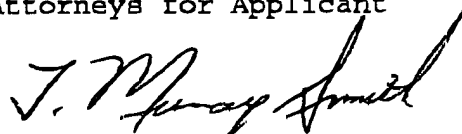
Petition Fee Required Under 37 CFR \$1.17(h)

The Commissioner is hereby authorized to charge to Deposit Account No. 02-0384 of Baker Botts L.L.P. the petition fee of \$ 130.00 (Fee Code 1460) required under 37 CFR §§ 1.313 and 1.17(h).

Deposit Account Authorization for Excess/Deficiency

The Commissioner is hereby authorized to credit any overpayment, or to charge any additional fee required by this paper, to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicant



T. Murray Smith  
Reg. No. 30,222  
(214) 953-6684

BAKER BOTTS, L.L.P.  
2001 Ross Avenue  
Suite 600  
Dallas, TX 75201-2980  
(214) 953-6500

Date: January 21, 2003

Enclosures: Request for Continued Examination

**BAKER BOTTS LLP**

Fax receipt will not be confirmed by phone unless requested.

2001 ROSS AVENUE  
DALLAS, TEXAS  
75201-2980  
214.953.6500  
FAX 214.953.6503  
www.bakerbotts.comAUSTIN  
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WASHINGTONTO Petitions Examiner Frances HicksFAX NO. 703-308-6916FIRM/COMPANY U.S. Patent and Trademark OfficeVOICE NO. 703-305-8680FROM T. Murray SmithVOICE NO. 214.953.6684DATE January 21, 2003RETURN TO Judy BaggettFAX NO. 214.953.6503PAGES (including cover) 7**MESSAGE**In re Application of: James M. FlorenceExaminer: Hemang SanghaviSerial No.: 09/844,170Group: 2874Filed: April 25, 2001Title: METHOD AND APPARATUS FOR SWITCHING OPTICAL  
SIGNALS WITH A PHOTON BAND GAP DEVICEAttorney Docket No. 069078.0104

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**URGENT:**

Please immediately notify Petitions Examiner Frances Hicks at 703-305-8680 that this cover sheet (with the enclosed Petition and RCE Transmittal) has been received. Thank you.

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this cover sheet with the enclosed Petition and RCE Transmittal are being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Signature: T. Murray Smith

T. Murray Smith, Reg. No. 30,222

Date: 21 January 2003**Notice of Confidentiality**

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